



DEPARTMENT OF DEFENSE

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Office of the Secretary

TRICARE Management Activity Adoption of Department of the Treasury's Administrative Wage Garnishment Procedures

AGENCY: TRICARE Management Activity (TMA), DoD.

ACTION: Adoption of Department of the Treasury Administrative Wage Garnishment Procedures

SUMMARY: This notice is to advise TRICARE sponsors, beneficiaries, providers, physicians, other suppliers of services or supplies, and any other persons who for any reason have been erroneously paid under TRICARE, that TRICARE Management Activity (TMA) is adopting by reference Department of the Treasury (Treasury) administrative wage garnishment procedures as established at 31 C.F.R. § 285.11. By adopting this regulation, TMA will authorize Treasury's Financial Management Service (FMS), to use administrative wage garnishment as an additional tool to collect TMA's debts once such legally enforceable non-tax debts are transferred to Treasury for collection through cross servicing pursuant to 32 C.F.R. § 199.11(f)(6)(vi). When a TMA debtor is employed in the private sector or by a state or local government, Treasury may be able to collect the debt by garnishing a portion of the debtor's disposable pay as defined in 31 C.F.R. § 285.11. Administrative wage garnishment will not affect a significant number of TMA debtors, as TMA estimates 6% of its debt cases and less than 0.3% of total debt may be eligible for collection with this tool.

DATES: TMA's adoption of the Department of the Treasury's administrative wage garnishment procedures is effective 30 days after publication of the notice.

ADDRESSES: TRICARE Management Activity (TMA), Claims Collection Section, Office of General Counsel, 16401 East Centretex Parkway, Aurora, CO 80011-9066.

FOR FURTHER INFORMATION CONTACT: Michael R. Bibbo, TRICARE Management Activity, Office of General Counsel, telephone (303) 676-3705.

SUPPLEMENTARY INFORMATION: TMA's authority to recover overpayments is outlined in 32 C.F.R. § 199.11. The Federal Claims Collection Act, as amended by the Debt Collection Act of 1982 and the Debt Collection Improvement Act of 1996, and Treasury regulations implementing these statutes, provides the basic authority under which claims may be asserted pursuant to § 199.11. Specific recoupment procedures are listed at 32 C.F.R. § 199.11(f)(6), including collection by transfer of debts to Treasury or a Treasury-designated debt collection center for collection through cross servicing per 32 C.F.R. § 199.11(f)(6)(vi). Pursuant to Title 31, United States Code (U.S.C.), Section 3711(g) and 31 C.F.R. § 285.12, the Director, TMA is required to transfer legally enforceable non-tax debts that have been delinquent for more than 180 days to Treasury's FMS for collection. The FMS cross-servicing program uses various means to collect debts, including offsetting federal payments, the use of private collection agencies and the garnishment of wages through administrative wage garnishment procedures. The Treasury Financial Manual, Part 4-Chapter 4000, requires agencies transferring debts to FMS to have administrative wage garnishment procedures or regulations.

Federal agencies are authorized to collect delinquent nontax debt owed to the United States from debtors' wages by means of administrative wage garnishment in accordance with the requirements of 31 U.S.C. § 3720D and 31 C.F.R. § 285.11. The implementing regulations provide due process for nontax debtors. Agencies may prescribe their own conforming regulations, containing the same substantive and procedural requirements as the Treasury final

rule on wage garnishment, for the conduct of administrative wage garnishment hearings. In the alternative, creditor agencies may adopt Treasury's administrative wage garnishment regulation, 31 C.F.R. § 285.11, without change by reference in order to authorize Treasury to use administrative wage garnishment as one of many debt collection remedies available to collect delinquent debts transferred to Treasury by a creditor agency.

Administrative wage garnishment is available for use against a narrow class of TMA's debtors. For a debtor's wages to be garnished, he or she must be an individual employed in the private sector or by a state or local government. TMA's debtors are primarily commercial medical providers. In addition, TMA debtors are often active duty or reserve military members or retirees whose debts are frequently satisfied by offsetting federal salary or retirement payments through the Defense Finance and Accounting Service. In January 2012, TMA had 1,821 open debt cases, 105 of which may have been subject to administrative wage garnishment. As these debts are generally much smaller than those incurred by commercial providers, they represent less than 0.3% of TMA open debt. With this notice, TMA adopts, without change, all of the provisions of 31 C.F.R. § 285.11 concerning administrative wage garnishment, including the Treasury hearing procedures described in 31 C.F.R. § 285.11(f). At least thirty (30) days prior to FMS initiating an administrative wage garnishment, FMS will send notice to the debtor, in accordance with the requirements of 31 C.F.R. § 285.11(e), informing the debtor that administrative wage garnishment will be initiated and how the debtor may request a hearing. If a debtor makes a timely hearing request, administrative wage garnishment will not begin until a hearing is held and a decision is sent to the debtor in accordance with the provisions of 31 C.F.R. § 285.11(f)(4). If a debtor's hearing request is untimely, FMS may suspend collection by administrative wage garnishment in accordance with the provisions of 31 C.F.R. § 285.11(f)(5). All travel expenses incurred by the debtor in connection with an in-person hearing will be borne by the debtor. This regulation does not apply to federal salary offset, the process by which

federal agencies collect debts from the salaries of federal employees. Additionally, when TMA collects debts of military members or retirees through offsetting Defense Finance and Accounting Service payments, the provisions of 32 C.F.R. § 199.11(f)(6)(vii) govern.

DATED: June 20, 2012.

Patricia Toppings

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Liaison Officer

Department of Defense

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